

Notice of Allowability

Application No.

09/965,101

Examiner

Dave T. Nguyen

Applicant(s)

KRIEG ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 59-October 10, 2004.
2. ☒ The allowed claim(s) is/are 59-82 and 84-107.
3. ☒ The drawings filed on 28 June 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>12/07/01</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

Claims 1-58 have been canceled, claims 59-61, 65, 73, 74, 84, 85, 94, 95, 99, and 107 have been amended by the amendment dated October 10, 2003.

In view of applicant's latest amendment, which reflects the results of the discussion during the telephonic interview of September 12, 2003, all outstanding rejections have been withdrawn by the examiner, the species restriction also has been withdrawn by the examiner.

Examiner' s Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a personal interview with Attorney Patrick Waller on January 9, 2004.

The specification has been amended as indicated below:

In the preliminary amendment dated 9/26/2001, which has been entered, please replace the phrase "now allowed" in the paragraph regarding the Related Applications (line 2 of the paragraph) with the following phrase:

-- now US Pat No. 6,339,068 --

Claims 83 and 108 have been canceled.

Claims 70-72, 104-106 have been amended as indicated below:

70. (Currently Amended) The method of claim 65, wherein the motif contains
TCCATGTCGTTCTGTCGTT (SEQ ID NO: 1).

71. (Currently Amended) The method of claim 65, wherein the motif contains
TCCTGACGTTCTGACGTT (SEQ ID NO: 2).

72. (Currently Amended) The method of claim 65, wherein the motif contains
TCGTCGTTTTGTCGTTTTGTCGTT (SEQ ID NO: 3).

104. (Currently Amended) The method of claim 99, wherein the motif contains
TCCATGTCGTTCTGTCGTT (SEQ ID NO: 1).

105. (Currently Amended) The method of claim 99, wherein the motif contains
TCCTGACGTTCTGACGTT (SEQ ID NO: 2).

106. (Currently Amended) The method of claim 99, wherein the motif contains
TCGTCGTTTTGTCGTTTTGTCGTT (SEQ ID NO: 3).

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The examiner also acknowledges that all of the references cited in the Information disclosure Statement (dated December 7, 2001), including those cited co-pending applications) have been considered by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Reynolds*, may be reached at **(703) 305-4051**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is **(703) 305-7401**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Please note that the examiner is expected to move to a new US PTO office building located in Alexandria on January 12, 2004. The examiner office phone number at the new building is **571-272-0731**.

Dave Nguyen
Primary Examiner
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DAVE T. NGUYEN
PRIMARY EXAMINER